



The Comptroller General
of the United States

Washington, D.C. 20548

Decision

Matter of: Americorp

File: B-231769

Date: September 13, 1988

DIGEST

Where the delay of bid opening did not result in prejudice to any of the prospective bidders, no compelling reason exists to justify cancellation of the solicitation.

DECISION

Americorp protests the delay of bid opening under invitation for bids (IFB) No. DAHA42-88-B-0059, issued by the Department of the Army for food services at Camp Williams, Utah. Americorp contends that it was prejudiced by the delay and that the IFB should be canceled and the procurement resolicited.

We deny the protest.

The IFB was issued on May 9, 1988. Amendment 0001 to the solicitation extended the deadline for submission of bids from June 9 to June 15. Both the IFB and the amendment stated that bids would be received until 5 p.m. Mountain Time, the ordinary time for close of business at the contracting office. Bid opening took place on June 16, at approximately 8:15 a.m. Mountain Time.

Americorp, the second low bidder, contends that bid opening should have taken place on June 15 at 5 p.m., the deadline for submission of bids under the IFB. Americorp argues that since bid opening did not take place until June 16, all prospective bidders should have been informed of this apparent extension of bid opening. According to Americorp, it was prejudiced by this improper procedure because, if notified of any such extension, it would have corrected an unspecified mistake in its bid, thereby making it the apparent low bidder. Americorp argues that since there is no public assurance that bids submitted after the June 15 deadline were not accepted by the Army or that any other

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irregularities did not take place, a compelling reason exists to cancel the solicitation and resolicit.

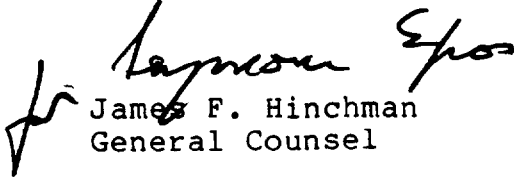
The Army argues that although the date and time for receipt of bids was specified, neither the IFB nor any of the amendments specified a bid opening time or date due to an inadvertent omission. The Army further notes that since bids were to be received until the close of business on June 15, the bid opening officer intended to proceed with bid opening at the start of business (7:15 a.m.) on June 16. The Army notes that bid opening on June 16 was delayed approximately 1 hour due to unexpected problems at the contracting agency which required the immediate attention of the bid opening officer. The Army advises that no bids were received after 5 p.m. on June 15. The Army contends that since none of the prospective bidders, including the protester, were prejudiced by the delay, the solicitation should not be canceled.

Under Federal Acquisition Regulation (FAR) § 14.404-1(a)(1), cancellation of an IFB after bid opening is warranted only where there is a compelling reason to do so. Generally, no compelling reason justifying cancellation exists when award under the IFB would meet the needs of the government without prejudice to the other bidders. See Systematics General Corp., B-224991, Feb. 20, 1987, 87-1 CPD ¶ 190. Here, we see no basis to conclude that cancellation is warranted.

Contrary to the Army's position, we believe that bid opening is to take place on the date and time specified in the IFB for receipt of bids. See 10 U.S.C. § 2305(a)(2)(B)(i)(II) (Supp. IV 1986). While opening bids on the day following the deadline for receipt of bids thus constituted a delay in bid opening in this case, in our view the delay did not prejudice any of the prospective bidders, including the protester. Since no bids were in fact received after the date and time set for receipt of bids, none of the prospective bidders gained an advantage due to any delay in bid opening. Further, while Americorp claims that it was deprived of an opportunity to correct an unspecified mistake in its bid, Americorp itself states that it was on notice of the delay in bid opening but apparently made no attempt to raise the alleged mistake with the contracting agency at that time. In any event, Americorp was entitled to seek correction after bid opening of any mistakes in its bid in

accordance with the mistake in bid procedures outlined in FAR § 14.406. Consequently, the protester has not shown any compelling reason to justify cancellation of the IFB.

The protest is denied.

James F. Hinchman
General Counsel